

## REMARKS

In the Action dated May 8, 2001, the Examiner has rejected Claims 1, 3 and 5-6 under 35 U.S.C. § 103(a) as being unpatentable over *Christer Bernerus, Software Management in DFS*, in view of *Thomas*, U.S. Patent No. 4,685,055. That rejection is respectfully traversed.

As previously pointed out to the Examiner, the present Specification is directed to shortcomings noted in two known different approaches in general use to set up personal computers within a large enterprise. As described in the present Specification at page 4, line 23, *et seq.*, one approach is to load a common set of base software which is required by all users on each personal computer thereafter download the unique requirements for each user utilizing a data transmission network. The second approach described is to load all software applications which any user may desire into each personal computer and thereafter have the user either ignore unwanted software or delete that software.

As described in the present Specification, the first approach has the disadvantage of downloading the unique software utilizing the network, thus occupying significant bandwidth within the network. The second approach has the disadvantage of incurring licensing fees for software which would be incurred even though a particular copy of the software is not being utilized.

The present invention solves the network bandwidth problem and license for utilization problem by, as described in each of the independent claims in the present Application, and in Claim 1, for example, loading a personal computer system with software including "selected and non-selected software in unusable form" and thereafter converting selected software into usable form with the non-selected programs for a particular user within his/her personal computer system not being converted into usable form, and creating a list of the selected software for a particular computer so that royalties can be paid on only the software which is in use.

As previously described to the Examiner, the *Christer Bernerus* reference which is primarily relied upon by the Examiner, is a description of a software management system utilized within a DFS system. Those having ordinary skill in this art will appreciate that DFS stands for "Distributed File System" which was previously defined for the Examiner as "a file management system in which files may be located on multiple computers connected over a local or wide area network."

As illustrated in **Figure 1** of *Christer Bernerus*, as relied upon by the Examiner, multiple users, presumably utilizing terminals or personal computers, access software packages which are present within the Distributed File System by means of software directors who can control whether or not a particular software package may be utilized by a particular user.

This system is similar to the first approach described in the present Specification in that the software must either be downloaded from the Distributed File System to the user or executed over the network, in either events substantially utilizing the available band width within the network.

Each and every claim within the present Application expressly recites the storage of selected and non-selected software within a personal computer in a non-usable form and the subsequent rendering of the selected software into a usable form. It is beyond cavil that *Bernerus* cannot be said to show or suggest such an invention. As further evidence of the inapplicability of the *Bernerus* reference, the Examiner's attention is invited to page 2 of that reference, under "General requirements" wherein *Bernerus* states "Software packages must be kept together so that all data necessary for use and administration of the package is contained under one defined point in the file system." Similarly, at page 4, *Bernerus* notes that the software packages are "in the file system" and are not contained within the personal computer as expressly required by the claims in the present Application.

The Examiner cites *Thomas*, for its teaching of the paying of royalties on only selected software. However, Applicant urges the Examiner to consider that *Thomas* discloses a situation in which software is downloaded, presumably over a network, from a software source 11 to a dealer 12 for subsequent distribution to an end-user 13. Thus, both *Bernerus* and *Thomas* disclose a situation in which the software is present at a remote location and executed thereat or downloaded via a network to the user's personal computer. Neither of these references can be said to show or suggest in any way the loading of both selected and non-selected software within a personal computer in a non-usuable form and the subsequent rendering of the selected software into usable form as set forth expressly within the claims and the Examiner's continued reliance upon the *Bernerus* reference as a primary ground of rejection is not believed to be well founded. In view of the above, Applicant urges that Claims 1, 3 and 5-6 define patentable subject matter over this combination of references and withdrawal of the Examiner's rejection is respectfully requested.

The Examiner also cites *Houck, et al.*, U.S. Patent No. 5,927,050 for its teaching of erasing non-selected software from a personal computer; however, a careful review of *Houck, et al.*, reveals that the "removal" described at column 1, lines 8-14 is the removal of the computer from the packing. Nothing within *Houck, et al.*, shows or suggests in any way the shipping of a computer containing both selected and non-selected software in a non-usuable form and the subsequent rendering of the selected software into a usable form in the manner set forth within the present claims and thus, no combination of *Houck, et al.*, with *Thomas* and *Bernerus*, can be said to show or suggest any of the claimed inventions set forth within the present Application.

The Examiner also cites *Halter, et al.*, U.S. Patent No. 5,319,705 for an alleged teaching of the conversion of software from an encrypted to an unencrypted form; however, *Halter* merely teaches that files may be transferred in an encrypted form and subsequently decrypted by allowing the user processor to apply a specific key for that software. No combination of *Halter, et al.*, whether considered alone or in combination with any of the references in the present Application can be said to show or suggest the invention set forth within the present claims.

The Examiner also cites [www.patents.ibm.com](http://www.patents.ibm.com), Software Custom Installation for Nodes in a Network. This reference teaches the downloading of software through a network from one portion of the network to a node within the network in a manner which utilizes much of the band width of the network and in a manner which is expressly distinguished from the present invention wherein selected and non-selected software are both loaded into a personal computer in an unusable form and wherein the selected software is thereafter selectively converted to usable form. Consequently, Applicant urges that no combination of this reference with the other references can be said to show or suggest the invention set forth within the claims of the present Application.

In summary, the claims of the present Application are each directed to a method or system whereby selective portfolios of software may be utilized by multiple users at personal computers within a large distributed enterprise without requiring those users to execute the software package over the network in the manner of a DFS system such as that taught within *Bernerus*. In accordance with the express statements within the claims of the present Application, selected and non-selected software packages are loaded into a personal computer in an unusable form and after the computer has been installed at its desired location, the selected software is rendered usable in a manner not shown or suggested by any of the references cited by the Examiner, whether considered alone or in combination. Consequently, Applicant urges the Examiner that Claims 1-21 define patentable subject matter over this combination of references and withdrawal of these rejections and passage of this Application to issue is therefore respectfully requested.

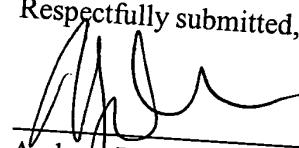
RECEIVED

AUG 13 2001

Group 2100

Neither fee nor extension of time are believed to be required; however, in the event an extension of time is deemed to be necessary, that extension of time is hereby requested. Please charge any necessary fees associated with an extension of time to IBM Deposit Account No. 50-0563.

Respectfully submitted,



Andrew J. Dillon  
Reg. No. 29,634

BRACEWELL & PATTERSON, L.L.P.  
Suite 350, Lakewood on the Park  
7600B North Capital of Texas Highway  
Austin, Texas 78731-1168  
(512) 542-2100

ATTORNEY FOR APPLICANT